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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/469,206	12/21/1999	JOHN T. PUGACZEWSKI	1626(USW0529	4702

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EXAMINER

POLLACK, MELVIN H

ART UNIT PAPER NUMBER

2152

DATE MAILED: 08/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/469,206

Applicant(s)

PUGACZEWSKI ET AL.

Examiner

Melvin H Pollack

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 December 1999.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 9 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 1999 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3,5,6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *see attached office action*.

## **DETAILED ACTION**

### ***Drawings***

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 9 and 10 recite the limitation "the method of claim 1" in claim 1. There is insufficient antecedent basis for this limitation in the claim. Claim 1 is a system claim that does not mention a method. The examiner assumes that the applicant meant "the method of claim 7."

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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6. Claims 1, 2, 5 are rejected under 35 U.S.C. 102(e) as being anticipated by Ma et al. (5,953,338).

7. For claim 1, Ma teaches a computer readable storage medium (col. 14, lines 27-33) having instructions stored thereon (official notice: it is anticipated in the prior art that instructions are stored in a storage medium), the instructions being executable by a computer (official notice: it is anticipated in the prior art that the instructions would be executed eventually, and that the purpose of software is to run on a computer) to provide, to a user, a user interface (col. 4, lines 51-54) to a network management system (col. 1, lines 25-30) for configuring a network connection (see fig. 1A and 1B) between a provider access point (item 160) and a user access point (item 110 A-K) over a network, including a permanent virtual circuit (col. 3, lines 9-16) between a switch and the user access point (col. 3, lines 36-40), the medium further comprising:

- a. Instructions for providing a user interface that directs the user to select a connection bandwidth for the permanent virtual circuit between the switch and the user access point (col. 7, lines 47-51 and Fig 8);
- b. Instructions for receiving, through the user interface, a message indicative of a selected bandwidth from the user (col. 8, lines 21-25); and
- c. Instructions for remotely provisioning the switch with the network management system in response to receiving the message to throttle the network connection at the switch (col. 4, lines 26-29) such that the connection bandwidth between the switch and the user access point is limited by the selected bandwidth (fig. 5).

8. As for claim 2, Ma also teaches that prior to executing the instructions for remotely provisioning, the connection bandwidth is limited by a previous bandwidth (col. 13, lines 5-7), and wherein the medium further comprises:

- a. Instructions for directing the user to select a time duration for the selected connection bandwidth (col. 13, lines 20-23);
- b. Instructions for receiving a message indicative of a selected duration (col. 13, lines 30-40); and
- c. Instructions for, upon the expiration of the selected duration after remotely provisioning the switch to limit the connection bandwidth by the selected bandwidth, remotely provisioning the switch with the network management system to throttle the network connection at the switch such that the connection bandwidth between the switch and the user access point is limited by the previous bandwidth (col. 13, lines 30-40).

9. As for claim 5, Ma also teaches that the network includes a plurality of subnets (col. 3, lines 16-17), each subnet having a corresponding element type (col. 3, lines 17-19) and including at least one programmable element of that type (col. 3, lines 9-15), each element type having a corresponding element manager (col. 3, lines 19-22), the medium further comprising:

- a. Instructions for determining a route made up of links over the network from the provider point to the user point, wherein a network-to-network link connects a pair of adjacent subnets having elements of different types and a network logical link provides a path across a subnet (col. 3, lines 23-30); and
- b. Instructions for establishing a connection across each subnet on the route by sending a request to the corresponding element manager to program the at least one

subnet element in accordance with the network logical link across that subnet, and for establishing a network-to-network connection between adjacent subnets on the route in accordance with the network-to-network link between those adjacent subnets to provide the network connection between the provider point and the user point (col. 3, lines 31-41).

*Claim Rejections - 35 USC § 103*

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ma as applied to claims 1, 2, 5 above, and further in view of Kekic et al. (5,999,179).

12. For claims 1, 2, and 5, that which is anticipated is obvious.

13. As for claim 3, Ma teaches that there is a user interface, but does not expressly disclose that the interface is a GUI. Kekic teaches that the instructions for providing the user interface include instructions for providing a graphical user interface (col. 6, lines 10-13). Further, at the time that the invention was made, GUIs were well known in the art as user interfaces for a wide number of applications. Graphical User Interfaces have long been shown to improve the usability of applications, allowing the average user greater control over the application. Kekic teaches a network management system that contains many of the same limitations as claim 1 and a GUI that is encapsulated and therefore can be used in separate applications. Therefore, at the

time the invention was made, one of ordinary skill in the art would have used Kekic's network management GUI in Ma's network management system in order to make the user interface more intuitive.

14. As for claim 4, Ma does not expressly disclose the need to authenticate the user. However, Ma does disclose that the invention will be used in places such as private networks (col. 3, line 17) and for uses such as leasing bandwidth capacity (col. 4, lines 17-26). Such places and uses obviously require some form of security to keep hackers from breaking into private networks and from stealing bandwidth. Kekic teaches that the program includes instructions for authenticating the user prior to remotely provisioning the switch (col. 75, lines 50-60). Further, the use of various methods to authenticate a user are well known in the art, and much of the client-server applications require at least a username/password login before providing certain functions. At the time the invention was made, one of ordinary skill in the art would have used Kekic's security procedures to protect the Ma network management system in order to protect the network in this security-conscious age.

15. As for claim 6, Ma does not explicitly disclose using a browser in the procedure as part of the user interface. Kekic teaches that at least some of the instructions are in a browser executable format (col. 21, lines 32-35). Further, at the time the invention was made, browsers were well known in the art, as were various techniques and applications to issue commands to the server and to receive messages from the server. This would allow for an easier implementation in setting up the network configuration and further provide users with a standard way to access online or web-based applications. Therefore, at the time the invention was made,

one of ordinary skill in the art would have combined the two inventions in order to provide the user with a recognizable way of accessing client-server programs.

16. Claim 7 is a method (see Ma abstract) for claims 1 and 3. The prior art teaches that the software implementation is functionally equivalent to the underlying method. Therefore, if claims 1 and 3 are rejected, then claim 7 is rejected for the reasons above.

17. Claims 8-10 are underlying method implementations (see Ma abstract) for claims 2, 4, and 5, respectively. The prior art teaches that the software implementation is functionally equivalent to the underlying method. Therefore, if claims 2, 4, and 5 are rejected, then claims 8 - 10 are rejected for the reasons above.

### *Conclusion*

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mattaway et al. (6,178,453) teaches another method of combining subnets and managing networks. Gai et al. (6,167,445) and Estberg et al. (6,148,337) teaches further methods of network management and of bandwidth selection. Charny et al. (6,047,328) teaches a method of combining stations through nodes to form virtual private networks. And Masel (6,038,611) teaches some background on developing user interfaces for network programs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin H Pollack whose telephone number is (703) 305-4641. The examiner can normally be reached on 8-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark H Rinehart can be reached on (703) 308-4815. The fax phone numbers for the




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organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

MHP  
August 6, 2002



ROBERT B. HARRELL  
PRIMARY EXAMINER